

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 35

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TOSHIAKI KANEMITSU, SHUJI KANEMITSU
and HIRONORI NISHIOKA

Appeal No. 2002-0240
Application 08/669,313

ON BRIEF

MAILED

OCT 24 2002

**PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES**

Before FRANKFORT, McQUADE, and BAHR, Administrative Patent Judges.

FRANKFORT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 5 and 6. Claim 8, the only other claim remaining in the application, stands allowed. Claims 1 through 4 and 7 have been canceled.

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Appellants' invention relates to a method for thickening the annular peripheral wall of a sheet metal member. Independent claim 5 is representative of the subject matter on appeal, and a copy of that claim can be found in the Appendix to appellants' brief (Paper No. 31).

The sole prior art reference of record relied upon by the examiner is:

Kanemitsu et al. (Kanemitsu) 5,396,787 Mar. 14, 1995

Claim 5 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Kanemitsu.

Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Kanemitsu.

Rather than reiterate the conflicting viewpoints advanced by the examiner and appellants regarding the above-noted rejections, we refer to the final rejection (Paper No. 29, mailed August 7, 2000), the examiner's answer (Paper No. 32, mailed July 10,

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2001), and to appellants' brief (Paper No. 31, filed May 7, 2001) and reply brief (Paper No. 33, filed August 10, 2001) for a full exposition thereof.

OPINION

Having carefully reviewed the anticipation and obviousness issues raised in this appeal in light of the record before us, we have made the determinations which follow.

Looking first to the examiner's rejection under 35 U.S.C. § 102(b) based on Kanemitsu, we observe that this patent addresses a method of forming a thickened annular peripheral wall portion (12) on a sheet metal member (1) that is being held by and between a pair of rotary mold or pattern components (e.g., Ala, Alb of Fig. 2A, or A2a, A2b of Figs. 1B and 2B) with a peripheral portion of the sheet metal member to be thickened projecting by a predetermined amount from the peripheral portions of the rotary mold or pattern components (see, e.g., col. 3, lines 1-10). As explained in column 2, lines 61-68, of Kanemitsu, the sheet metal member or "steel plate" (1) to be

subjected to the thickening method described therein may be either the flat, disc-like plate of Figure 3 or the flanged cup-shaped member shown in Figure 4.

Clearly the examiner is relying upon the "steel plate" or flanged cup-shaped member (1) as shown in Figure 4 as the starting point in the method of Kanemitsu, with the thickening described therein to be provided in a projecting outer peripheral portion of the flange of the cup-shaped member, while the remainder of the cup-shaped member is held by and between a pair of rotary mold or pattern components. As in appellants' method, in the Kanemitsu patent recessed annular forming faces of circular rollers (e.g., B1, B2) of plural kinds or shapes are applied against the projecting flange portion and utilized to sequentially press the exposed flange portion into a thickened configuration (12) until such time that the thickened configuration defines a thickened annular peripheral wall.

While appellants' arguments concerning the rejection of claim 5 are not entirely clear, it appears from pages 3 and 4 of the brief that appellants are concerned with the fact that "how the shape of Fig. 4 is produced is not really disclosed." Like

the examiner, we note that claim 5 on appeal does not require the initial forming of the sheet metal member to be done in any particular manner, except that such forming will result in a member having a configuration with a base plate, a stepped portion and a flange-shaped portion. The sheet metal member seen in Figure 4 of Kanemitsu clearly has been formed to have a base plate, a stepped portion and a flange-shaped portion. At column 5, lines 50-52, in the discussion of another embodiment of the invention therein, Kanemitsu discloses that a member having a configuration like that seen in Figure 4 may be formed by beginning with a disc-like steel plate (e.g., Fig.3), which may then be bent and formed into a flanged cup shape, as in Figure 4.

Appellants' concerns on page 4 of the brief are addressed by noting that the alternative embodiment disclosed in column 5, lines 45-53, of Kanemitsu is not shown in the drawings of the patent. What is depicted in Figures 3 and 4 of that patent are the possible starting configurations for the "steel plate" (1), not a finished product for the embodiment discussed in column 5, lines 45-53, as appellants seem to imply.

In contrast to appellants' assertion in the reply brief, we are of the view that Kanemitsu clearly and unequivocally teaches that the entire cup-shaped member (1), except for a predetermined projecting portion of the flange thereof to be thickened, is placed between top and bottom pattern tools or rotary mold members (e.g., Ala, Alb of Fig. 2A, or A2a, A2b of Figs. 1B, 2B).

In light of the foregoing, we find appellants' arguments in the brief and reply brief to be unpersuasive. Since appellants' arguments have not convinced us of any error in the examiner's position regarding the rejection of claim 5 on appeal, we will sustain the rejection of that claim under 35 U.S.C. § 102(b) based on Kanemitsu.

Regarding the examiner's rejection of dependent claim 6 under 35 U.S.C. § 103(a) as being unpatentable over Kanemitsu, we note that given the manner of support of the cup-shaped member (1) during the forming steps, i.e., with only a projecting outer peripheral portion of the flange exposed, while the remainder of the cup-shaped member is held by and between a pair of rotary mold or pattern components, at least some segment of the flange-shaped portion adjacent the vertical wall stepped portion seen in

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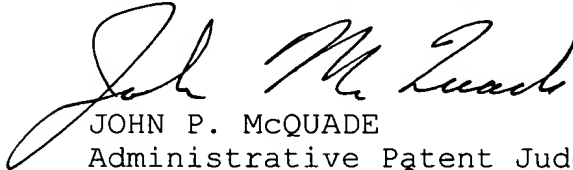
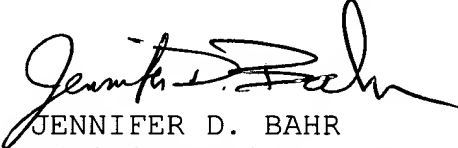
Figure 4 will be inclined relative to the base plate of the cup-shaped member during the forming steps. Thus, we consider that Kanemitsu teaches this aspect of appellants' invention. As have been made clear by our reviewing Courts on numerous occasions, anticipation or lack of novelty is the ultimate or epitome of obviousness. See, in this regard, In re Fracalossi, 681 F.2d 792, 794, 215 USPQ 569, 571 (CCPA 1982); In re Pearson, 494 F.2d 1399, 1402, 181 USPQ 641, 644 (CCPA 1974). Thus, the rejection of claim 6 under 35 U.S.C. § 103(a) will also be sustained.

To summarize, we note that the decision of the examiner to reject claim 5 under 35 U.S.C. § 102(b) as anticipated by Kanemitsu is affirmed, as is the examiner's rejection of claim 6 under 35 U.S.C. § 103(a) as being unpatentable over Kanemitsu.

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No time period for taking any subsequent action in
connection with this appeal may be extended under 37 CFR
§ 1.136(a).

AFFIRMED

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CHARLES E. FRANKFORT)	
Administrative Patent Judge)	
)	
JOHN P. McQUADE)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
JENNIFER D. BAHR)	
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